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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4507 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements? No

2. To be referred to the Reporter or not? No :

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement? No

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge? No :

SAVITABEN MOHANBHAI WAGHELA

Versus

A'BAD MUNICIPAL CORPORATION

Appearance:

MR NR SHAHANI for Petitioner
MR SI NANAVATI for Respondent No. 1
MR DN PATEL for Respondent No. 2

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 25/02/2000

ORAL JUDGEMENT

By means of filing this petition under Article

226 of the Constitution, the petitioner has prayed to issue a writ of certiorari or a writ of mandamus or any other appropriate writ or order directing the respondents to correct name of the petitioner from Savita Mulji to Savita Mohan and to treat her as having been employed from May 22, 1977 with all consequential benefits. The petitioner has also prayed to direct the respondents-authorities to give her regular appointment in the Grade of Rs. 196-232 as may be revised from time to time, from the date on which she has completed 900 days of service as a sweeper with all consequential benefits.

2. During the pendency of the petition, the petitioner has been regularised in service vide Office Order dated February 9, 1989 pursuant to interim direction given by the High Court in the present petition. The order dated February 9, 1989 produced by the learned Counsel for the petitioner for perusal makes it manifest that the petitioner is treated as having been employed on May 1, 1979; whereas her services are regularised with effect from September 1, 1987. This order is not challenged by the petitioner at all. Under the circumstances, prayer to treat the petitioner as having been employed in service with effect from May 22, 1977 does not survive. Similarly, prayer to direct the respondents to regularise her services also does not survive because services of the petitioner have been regularised with effect from September 1, 1987. The only grievance which requires to be examined is whether the respondents should be directed to correct her name from Savita Mulji to Savita Mohan. In support of this relief, the petitioner has produced several documents including the records maintained by the Health Department of Ahmedabad Municipal Corporation which are at Annexures H1 & H2. It may be stated that these documents are not challenged by the respondents at all. Therefore, in my view, case is made out by the petitioner to direct the respondents to change her name from Savita Mulji to Savita Mohan. It appears that the petitioner was not paid annual increments and, therefore, the petitioner had filed Civil Application No. 221/90 in the present petition. The Court vide order dated March 2, 1990 had directed the respondents to release the increments and other benefits which were withheld by them and make payment thereof latest before April 15, 1990. As services of the petitioner are regularised with effect from September 1, 1987, the petitioner would be entitled to increments and other benefits withheld by the respondents from September 1, 1987 till the date on which increments and other benefits were paid to her pursuant

to order dated March 2, 1990 which was passed in Civil Application No. 221/90 and, therefore, appropriate direction will have to be given to the respondents to pay to the petitioner increments and other benefits from September 1, 1987 till increments and other benefits were paid to her pursuant to order dated March 2, 1990 passed in Civil Application No. 221/90.

For the foregoing reasons, petition partly succeeds. The respondents are directed to change name of the petitioner from Savita Mulji to Savita Mohan and carry out necessary corrections in the service record of the petitioner. The respondents are directed to pay increments and other consequential benefits payable to the petitioner from September 1, 1987 till the date on which increments and other benefits were paid to her pursuant to order dated March 2, 1990 which was rendered in Civil Application No. 221/90, as early as possible and preferably within two months from the date of receipt of the writ. Rule is made absolute accordingly, with no order as to costs.

25.2.2000 (J.M.Panchal,J.)